

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Peter Barnhart,

Case No. 3:16-cv-2597

Plaintiff

v.

MEMORANDUM OPINION

Troy Dilinger, et al.,

Defendants

Before me is a motion for default judgment or, alternatively, summary judgment filed by *pro se* Plaintiff Peter Barnhart. (Doc. No. 11). Defendants filed a memorandum in opposition, (Doc. No. 12), and Barnhart replied, (Doc. No. 13).

An entry of default is warranted only when “a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P. 55(a). That is not the case here. After being served on October 26, 2016, Defendants Troy Dilinger and Edward Ohlemacher filed an answer within 21 days of service - November 14, 2016. Fed. R. Civ. P. 12 (a)(1)(A)(i); (Doc. Nos. 3 & 4). Though Barnhart contends the answer was insufficient, Defendants properly admitted or denied the allegations of the complaint and stated in “short and plain terms its defenses to each claim asserted against it.” Fed. R. Civ. P. 8(b)(1). Because Defendants timely filed a procedurally-compliant answer, the motion for default is denied as meritless.

Additionally, because no discovery has been completed, which would provide the evidence or lack thereof necessary for me to provide evaluate the merits of summary judgment, Barnhart’s motion for summary judgment is denied as premature.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge